



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 593**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H593-ATV-91 [v.4]

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Amends Title [NO]
Second Edition

Date _____, 2020

Senator Daniel

1 moves to amend the bill on page 1, line 6, by deleting "MISDEMEANOR" and substituting the
2 word "MISDEMEANANT";

3
4 and on page 5, line 9, by rewriting the line to read:

5 "G.S. 7B-1501(11). If the person being committed reaches the age of 18 years while held in
6 custody, the person shall be transported by personnel of the Juvenile Justice Section of the
7 Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of
8 the county where the charges arose.";

9
10 and on page 5, lines 41-43, by rewriting the lines to read:

11 "delivering the prisoner to the court, the jailer or personnel of the Juvenile Justice Section must
12 note the time and date on the order and return it to the clerk. Personnel of the Juvenile Justice
13 Section shall transport the";

14
15 And on page 6, line 22 through page 12, line 25 by rewriting the lines to read:

16 "**SECTION 8.(e)** G.S. 15A-1343(a1) reads as rewritten:
17 "**§ 15A-1343. Conditions of probation.**

18 ...

19 (a1) Community and Intermediate Probation Conditions. – In addition to any conditions a
20 court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
21 one or more of the following conditions as part of a community or intermediate punishment:

- 22 (1) House arrest with electronic monitoring.
23 (2) Perform community service and pay the fee prescribed by law for this
24 supervision.
25 (3) Submission to a period or periods of confinement in a local confinement
26 facility for a total of no more than six days per month during any three separate
27 months during the period of probation. The six days per month confinement
28 provided for in this subdivision may only be imposed as two-day or three-day
29 consecutive periods. When a defendant is on probation for multiple
30 judgments, confinement periods imposed under this subdivision shall run
31 concurrently and may total no more than six days per month. If the person
32 being ordered to a period or periods of confinement is under the age of 18,



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1 that person must be confined in a detention facility approved by the Juvenile
2 Justice Section of the Division of Adult Correction and Juvenile Justice to
3 provide secure confinement and care for juveniles or to a holdover facility as
4 defined in G.S. 7B-1501(11). If the person being ordered to a period or periods
5 of confinement reaches the age of 18 years while in confinement, the person
6 may be transported by personnel of the Juvenile Justice Section of the
7 Division, or personnel approved by the Juvenile Justice Section, to the custody
8 of the sheriff of the applicable local confinement facility.

9 (4) Substance abuse assessment, monitoring, or treatment.

10 (4a) Abstain from alcohol consumption and submit to continuous alcohol
11 monitoring when alcohol dependency or chronic abuse has been identified by
12 a substance abuse assessment.

13 (5) Participation in an educational or vocational skills development program,
14 including an evidence-based program.

15 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of
16 Chapter 14 of the General Statutes, if the defendant is described by
17 G.S. 14-208.40(a)(2)."

18 **SECTION 8.(f)** G.S. 15A-1343.2(e) reads as rewritten:

19 "(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
20 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
21 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the
22 Department of Public Safety may require an offender sentenced to community punishment to do
23 any of the following:

24 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
25 law for this supervision.

26 (2) Report to the offender's probation officer on a frequency to be determined by
27 the officer.

28 (3) Submit to substance abuse assessment, monitoring or treatment.

29 (4) Submit to house arrest with electronic monitoring.

30 (5) Submit to a period or periods of confinement in a local confinement facility
31 for a total of no more than six days per month during any three separate
32 months during the period of probation. The six days per month confinement
33 provided for in this subdivision may only be imposed as two-day or three-day
34 consecutive periods. When a defendant is on probation for multiple
35 judgments, confinement periods imposed under this subdivision shall run
36 concurrently and may total no more than six days per month. If the person
37 being ordered to a period or periods of confinement is under the age of 18,
38 that person must be confined in a detention facility approved by the Juvenile
39 Justice Section of the Division of Adult Correction and Juvenile Justice to
40 provide secure confinement and care for juveniles or to a holdover facility as
41 defined in G.S. 7B-1501(11). If the person being ordered to a period or periods
42 of confinement reaches the age of 18 years while in confinement, the person
43 may be transported by personnel of the Juvenile Justice Section of the

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Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.

(6) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.

(7) Participate in an educational or vocational skills development program, including an evidence-based program.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (e) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (5) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy."

SECTION 8.(g) G.S. 15A-1343.2(f) reads as rewritten:

"(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

(1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision.

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- (2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.
- (3) Submit to substance abuse assessment, monitoring or treatment, including continuous alcohol monitoring when abstinence from alcohol consumption has been specified as a term of probation.
- (4) Participate in an educational or vocational skills development program, including an evidence-based program.
- (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).
- (6) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person must be confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.
- (7) Submit to house arrest with electronic monitoring.
- (8) Report to the offender's probation officer on a frequency to be determined by the officer.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (f) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of this subsection may not be imposed unless the Section determines that the offender failed to

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1 comply with one or more of the conditions imposed by the court. Nothing in this section shall be
2 construed to limit the availability of the procedures authorized under G.S. 15A-1345.

3 The Division shall adopt guidelines and procedures to implement the requirements of this
4 section, which shall include a supervisor's approval prior to exercise of the delegation of authority
5 authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this
6 subsection, the probationer must first be presented with a violation report, with the alleged
7 violations noted and advised of the right (i) to a hearing before the court on the alleged violation,
8 with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing,
9 and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have
10 relevant information concerning the alleged violations; and (iv) to examine any witnesses or
11 evidence. The probationer may be confined for the period designated on the violation report upon
12 the execution of a waiver of rights signed by the probationer and by two officers acting as
13 witnesses. Those two witnesses shall be the probation officer and another officer to be designated
14 by the Chief of the Community Corrections Section in written Division policy."

15 **SECTION 8.(h)** G.S. 15A-1344(d2) reads as rewritten:

16 "(d2) Confinement in Response to Violation. – When a defendant under supervision for a
17 felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or
18 G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive days to
19 be served in the custody of the Division of Adult Correction and Juvenile Justice of the
20 Department of Public Safety. The court may not revoke probation unless the defendant has
21 previously received a total of two periods of confinement under this subsection. A defendant may
22 receive only two periods of confinement under this subsection. The 90-day term of confinement
23 ordered under this subsection for a felony shall not be reduced by credit for time already served
24 in the case. Any such credit shall instead be applied to the suspended sentence. However, if the
25 time remaining on the maximum imposed sentence on a defendant under supervision for a felony
26 conviction is 90 days or less, then the term of confinement is for the remaining period of the
27 sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

28 When a defendant under supervision for a misdemeanor conviction sentenced pursuant to
29 Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
30 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
31 confinement pursuant to G.S. 15A-1343(a1)(3). If the person being ordered to a period of
32 confinement is under the age of 18, that person must be confined in a detention facility approved
33 by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide
34 secure confinement and care for juveniles or to a holdover facility as defined in
35 G.S. 7B-1501(11). If the person being ordered to a period of confinement reaches the age of 18
36 years while in confinement, the person may be transported by personnel of the Juvenile Justice
37 Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of
38 the sheriff of the applicable local confinement facility. The court may not revoke probation unless
39 the defendant has previously received at least two periods of confinement for violating a
40 condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a). Those periods
41 of confinement may have been imposed pursuant to G.S. 15A-1343(a1)(3), 15A-1343.2(e)(5), or
42 15A-1343.2(f)(6). The second period of confinement must have been imposed for a violation that

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1 occurred after the defendant served the first period of confinement. Confinement under this
2 section shall be credited pursuant to G.S. 15-196.1.

3 When a defendant under supervision for a misdemeanor conviction not sentenced pursuant
4 to Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other
5 than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of
6 confinement of up to 90 consecutive days to be served where the defendant would have served
7 an active sentence. The court may not revoke probation unless the defendant has previously
8 received a total of two periods of confinement under this subsection. A defendant may receive
9 only two periods of confinement under this subsection. Confinement under this section shall be
10 credited pursuant to G.S. 15-196.1.

11 The period of confinement imposed under this subsection on a defendant who is on probation
12 for multiple offenses shall run concurrently on all cases related to the violation. Confinement
13 shall be immediate unless otherwise specified by the court."

14 **SECTION 8.(i)** G.S. 15A-1344(e) reads as rewritten:

15 "(e) Special Probation in Response to Violation. – When a defendant has violated a
16 condition of probation, the court may modify the probation to place the defendant on special
17 probation as provided in this subsection. In placing the defendant on special probation, the court
18 may continue or modify the conditions of probation and in addition require that the defendant
19 submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever
20 time or intervals within the period of probation the court determines. In addition to any other
21 conditions of probation which the court may impose, the court shall impose, when imposing a
22 period or periods of imprisonment as a condition of special probation, the condition that the
23 defendant obey the rules and regulations of the Division of Adult Correction and Juvenile Justice
24 of the Department of Public Safety governing conduct of inmates, and this condition shall apply
25 to the defendant whether or not the court imposes it as a part of the written order. If imprisonment
26 is for continuous periods, the confinement may be in either the custody of the Division of Adult
27 Correction and Juvenile Justice of the Department of Public Safety or a local confinement
28 facility. Noncontinuous periods of imprisonment under special probation may only be served in
29 a designated local confinement or treatment facility. If the person being ordered to a period or
30 periods of imprisonment, either continuous or noncontinuous, is under the age of 18, that person
31 must be imprisoned in a detention facility approved by the Juvenile Justice Section of the
32 Division of Adult Correction and Juvenile Justice to provide secure confinement and care for
33 juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to
34 a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person
35 may be transported by personnel of the Juvenile Justice Section of the Division, or personnel
36 approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local
37 confinement facility.

38 Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all
39 periods of confinement imposed as an incident of special probation, but not including an activated
40 suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment
41 imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1,
42 the total of all periods of confinement imposed as an incident of special probation, but not
43 including an activated suspended sentence, shall not exceed one-fourth the maximum penalty

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1 allowed by law. No confinement other than an activated suspended sentence may be required
2 beyond the period of probation or beyond two years of the time the special probation is imposed,
3 whichever comes first."

4 **SECTION 8.(j)** G.S. 15A-1351(a) reads as rewritten:

5 "(a) The judge may sentence to special probation a defendant convicted of a criminal
6 offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record
7 or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment
8 is authorized for the class of offense of which the defendant has been convicted. A defendant
9 convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation.
10 Under a sentence of special probation, the court may suspend the term of imprisonment and place
11 the defendant on probation as provided in Article 82, Probation, and in addition require that the
12 defendant submit to a period or periods of imprisonment in the custody of the Division of Adult
13 Correction and Juvenile Justice of the Department of Public Safety or a designated local
14 confinement or treatment facility at whatever time or intervals within the period of probation,
15 consecutive or nonconsecutive, the court determines, as provided in this subsection. For
16 probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all
17 imprisonment under this subsection shall be in a designated local confinement or treatment
18 facility. If the person being ordered to a period or periods of imprisonment is under the age of
19 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section
20 of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care
21 for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered
22 to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person
23 may be transported by personnel of the Juvenile Justice Section of the Division, or personnel
24 approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local
25 confinement facility. In addition to any other conditions of probation which the court may
26 impose, the court shall impose, when imposing a period or periods of imprisonment as a condition
27 of special probation, the condition that the defendant obey the Rules and Regulations of the
28 Division of Adult Correction and Juvenile Justice of the Department of Public Safety governing
29 conduct of inmates, and this condition shall apply to the defendant whether or not the court
30 imposes it as a part of the written order. Except for probationary sentences for misdemeanors,
31 including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the
32 confinement may be in the custody of either the Division of Adult Correction and Juvenile Justice
33 of the Department of Public Safety or a local confinement facility. Noncontinuous periods of
34 imprisonment under special probation may only be served in a designated local confinement or
35 treatment facility. If the person being ordered continuous or noncontinuous periods of
36 imprisonment is under the age of 18, that person must be imprisoned in a detention facility
37 approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice
38 to provide secure confinement and care for juveniles or to a holdover facility as defined in
39 G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches
40 the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile
41 Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the
42 custody of the sheriff of the applicable local confinement facility. Except for probationary
43 sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement

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1 imposed as an incident of special probation, but not including an activated suspended sentence,
2 may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and
3 no confinement other than an activated suspended sentence may be required beyond two years
4 of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of
5 all periods of confinement imposed as an incident of special probation, but not including an
6 activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.
7 In imposing a sentence of special probation, the judge may credit any time spent committed or
8 confined, as a result of the charge, to either the suspended sentence or to the imprisonment
9 required for special probation. The original period of probation, including the period of
10 imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but
11 may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court
12 may revoke, modify, or terminate special probation as otherwise provided for probationary
13 sentences."

14 **SECTION 8.(k)** G.S. 15A-1352 reads as rewritten:

15 **"§ 15A-1352. Commitment to Division of Adult Correction and Juvenile Justice of the**
16 **Department of Public Safety or local confinement facility.**

17 (a) Except as provided in subsection (f) of this section, a person sentenced to
18 imprisonment for a misdemeanor under this Article or for nonpayment of a fine for conviction
19 of a misdemeanor under Article 84 of this Chapter shall be committed for the term designated by
20 the court to the Statewide Misdemeanant Confinement Program as provided in G.S. 148-32.1 or,
21 if the period is for 90 days or less, to a local confinement facility, except as provided for in
22 G.S. 148-32.1(b).

23 If a person is sentenced to imprisonment for a misdemeanor under this Article or for
24 nonpayment of a fine under Article 84 of this Chapter, the sentencing judge may make a finding
25 of fact as to whether the person would be suitable for placement in a county satellite jail/work
26 release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of
27 fact that the person would be suitable for placement in a county satellite jail/work release unit
28 and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the
29 local confinement facility may transfer the misdemeanant to a county satellite jail/work release
30 unit.

31 If the person sentenced to imprisonment is under the age of 18, the person must be committed
32 to a detention facility approved by the Juvenile Justice Section of the Division of Adult
33 Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel
34 of the Juvenile Justice Section of the Division or personnel approved by the Juvenile Justice
35 Section shall transport the person to the detention facility. If the person sentenced to
36 imprisonment reaches the age of 18 years while imprisoned, the person may be transported by
37 personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile
38 Justice Section, to the custody of the sheriff of the applicable local confinement facility.

39 (b) A person sentenced to imprisonment for a felony under this Article or for nonpayment
40 of a fine for conviction of a felony under Article 84 of this Chapter shall be committed for the
41 term designated by the court to the custody of the Division of Adult Correction and Juvenile
42 Justice of the Department of Public Safety.

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1 (c) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
2 Editor's note for applicability.

3 (d) Notwithstanding any other provision of law, when the sentencing court, with the
4 consent of the person sentenced, orders that a person convicted of a misdemeanor be granted
5 work release, the court may commit the person to a specific prison facility or local confinement
6 facility or satellite jail/work release unit within the county of the sentencing court in order to
7 facilitate the work release arrangement. When appropriate to facilitate the work release
8 arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners,
9 commit the person to a specific local confinement facility or satellite jail/work release unit in
10 another county.

11 (e) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See
12 Editor's note for applicability.

13 (f) A person sentenced to imprisonment of any duration for impaired driving under
14 G.S. 20-138.1, other than imprisonment required as a condition of special probation under
15 G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant
16 Confinement Program established under G.S. 148-32.1.

17 If the person sentenced to imprisonment is under the age of 18, the person must be committed
18 to a detention facility approved by the Juvenile Justice Section of the Division of Adult
19 Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel
20 of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section shall
21 transport the person to the detention facility. If the person sentenced to imprisonment reaches the
22 age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile
23 Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the
24 custody of the sheriff of the applicable local confinement facility. "";

25
26 And on page 13, line 33 by deleting "**MISDEMEANOR**" and substituting
27 "**MISDEMEANANT**";

28
29 And on page 13, line 39, by deleting "Misdemeanor" and substituting "Misdemeanant";

30
31 And on page 13, line 50, by deleting "Misdemeanor" and substituting "Misdemeanant";

32
33 And on page 14, line 6, by deleting "Misdemeanor" and substituting "Misdemeanant";

34
35
36 And on page 12, line 47, by rewriting the line to read:

37 "to sentenced jail prisoners-prisoners, including prisoners housed in a detention facility approved
38 by the";

39
40 And on page 13, line 30, by deleting the date "July 1, 2020" and substituting the date "August 1,
41 2020".

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____